

REMARKS

Claims 1-23 stand rejected under 35 U.S.C. 102(b) as being anticipated by, and/or under 35 U.S.C. 103(a) as being obvious over, Kim (US 2002/0183637).

Based on the comments in paragraph 2 of the office action, it appears that the issue is one more of claim language construction rather than commonality between the present invention and the disclosure in Kim. In relation to previous claim 1, the interpretation being used in the rejection takes into account all beats from the initialization of a template to the natural end as seen in Fig. 6. As seen in Fig. 6, Kim collects 20 RR intervals, which include both paced and non-paced heartbeats (see paragraph [0068]). After the 20th heartbeat, the rate regularity is checked after every heartbeat in a template update procedure to create a 20 interval moving window (see paragraph [0074]), which continues until the "natural end of update."

To better define the present invention, claim 1 has been amended to recite collecting a predetermined number of detected non-paced heartbeats having predetermined characteristics during a first discrete sample collection interval as first selected events and collecting a predetermined number of detected non-paced heartbeats having predetermined characteristics during a second discrete sample collection interval subsequent to the first discrete sample collection interval as second selected events. Amended claim 1 then goes on to recite steps of determining whether the current template is valid based upon a comparison of the collected first selected events and the collected second selected events and generating an updated template from the collected second selected events in response to the current template not being valid. Clearly, the moving window approach of Kim is distinguished by the recitation in amended claim 1 of two discrete sample collection intervals wherein each collection of heartbeats is used to generate a separate template. Accordingly, as amended, claim 1 is not anticipated by or obvious from Kim. It necessarily follows that

dependent claims 2-9 are also allowable. Also, claim 19 has been amended to depend from amended claim 1.

Claim 10 has been similarly amended. Accordingly, claims 10-18 are allowable over Kim.

Finally, claims 20-23 have been canceled.

The rejection under section 112, first paragraph, has been obviated in view of the amendment to cancel the term "only" from the claims.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this Amendment, the Examiner is requested to telephone the undersigned attorney to attend to those matters.

Respectfully submitted,

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Date

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